IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WA.No. 1566 of 2007

(*AGAINST THE ORDER IN WPC.8840/2007 DATED 15.03.2007*)

APPELLANTS/ PETITIONERS;
---

1. THE PRESIDENT, SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD., NO. Q-373, SASTHAMCOTTA P.O., KOLLAM DISTRICT.

2. THE SECRETARY, SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD., NO.Q-373, SASTHAMCOTTA P.O., KOLLAM DISTRICT.

BY ADV. SRI.K.JAYAKUMAR
ADV. SRI.R.SURAJ KUMAR

RESPONDENTS/RESPONDENTS;
---

1. THE STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT, DEPARTMENT OF LABOUR, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE REGIONAL JOINT LABOUR COMMISSIONER, KOLLAM.

3. THE DISTRICT LABOUR OFFICER, KOLLAM.

4. SMT.SYAMALA DEVI AMMA.S., KONNAVILA PUTHEN VEEDU, AYIKUNNAM, SASTHAMCOTTA P.O., KOLLAM DISTRICT.

BY SPL. GOVERNMENT PLEADER SHRI C.T. RAVIKUMAR.
SRI.K.GOPALAKRISHNA KURUP
SRI.SADER E.REAZ

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

W.A. No. 1566 OF 2007

.....

Dated this the 18th September, 2007

J U D G M E N T

H.L. Dattu, C.J.:

In this appeal, the Co-operative Agricultural and Rural Development Bank, Sasthamcotta is questioning the correctness or otherwise of the interim orders passed by the learned single Judge in W.P(C) No. 8840 of 2007 dated 15.03.2007. By the impugned order, the learned single Judge has declined to entertain the Writ Petition filed against the award passed by the Labour Court on 31.01.2004. However, by the impugned order, the learned single Judge has deferred the prosecution proceedings launched by the District Labour Officer, Kollam, for a period of four months from the date of the order only for compliance of the award.

2. The facts in brief are: The 4th respondent in the Writ Petition had approached the Labour Court, Kollam for certain reliefs. After registering the claim made by the 4th respondent, the Labour Court had issued notice to the petitioner-Bank. It appears that though the petitioner-Bank had engaged the service of a learned counsel, since the counsel did not participate in the proceedings, the Labour Court has proceeded to pass an award dated 31.01.2004, in favour of the claimant-workman. The award so passed by the Labour Court was published in the Gazette and thereby the people were made known about the award passed by the Labour Court in favour of the workman. Apart from this, after the award, since the same was not complied with by the petitioner-Bank, the workman had approached the District Labour

Officer, Kollam with a request to execute the award. The District Labour Officer, Kollam, before filing the complaint before the Court of the Munsiff-Magistrate, Sasthamcottah, had issued a registered notice dated 04.08.2004, inter alia directing the petitioner-Bank to show cause as to why appropriate legal proceedings should not be initiated against them for violation of the terms and conditions of the award passed on 31.01.2004.

3. After passing of the award and also after receiving the notice issued by the District Labour Officer, Kollam, the petitioner-Bank did not choose to question the correctness or otherwise of the award passed by the Labour Court before any Forum, much less before this Court. It is only for the first time in the month of March, 2007, the petitioner has called in question the award passed by the Labour Court and further proceedings initiated by the District Labour Officer, Kollam before this Court.

4. The learned single Judge, keeping in view the settled legal position that the person who had slept over his rights for years is not entitled to the discretionary reliefs sought in the Petition, has declined to entertain the challenge made against the award passed by the Labour Court.

5. Admittedly, the award was passed by the Labour Court on 31.01.2004. Before passing such an award, a notice had been issued to the petitioner-Bank and the petitioner-Bank had received the same. In spite of such service of notice, if the petitioner-Bank could not participate in the proceedings, the petitioner is not expected to blame the Labour Court for passing the ex parte award. Even otherwise also the petitioner-Bank cannot challenge the ex parte award passed after ages, since the District Labour Officer, Kollam, after receiving the complaint from the workman for violating

the terms and conditions of the award passed by the Labour Court, by the bank, had issued notice dated 04.08.2004 to the petitioner-Bank. Though the said notice was also served on the petitioner, the petitioner-Bank did not choose to question the award passed by the Labour Court within a reasonable time thereafter. The petitioner had slept over the matter for years and it is only for the first time in the month of March, 2007, the petitioner Bank has woken up from its slumber and has approached this court.

5. In our opinion, since the explanation offered by the petitioner is not satisfactory in approaching this court nearly after three years of the date of the award, the learned single Judge is justified in rejecting the challenge against the award passed by the Labour Court on the ground of delay and latches on the part of the petitioner-Bank in approaching this court questioning the correctness or otherwise of the orders passed by the Labour Court on 31.01.2004 . The order dated 15.03.2007 passed by the learned single Judge is in consonance with the first principles and as well as the settled legal position enunciated by the Apex Court . In our opinion, we do not see any error in the orders passed by the learned single Judge. Therefore, interference with the said order is not called for. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk/DK.